

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

CALIFORNIANS FOR DISABILITY RIGHTS (CDR), CALIFORNIA COUNCIL OF THE BLIND (CCB), BEN ROCKWELL and DIMITRI BELSER, on behalf of themselves, and on behalf of all others similarly situated

No. C 06-5125 SBA

ORDER

[Docket Nos. 251, 259, 274, 288]

Plaintiffs,

V.

CALIFORNIA DEPARTMENT OF
TRANSPORTATION (Caltrans) and WILL
KEMPTON, in his official capacity,

Defendants.

The parties appeared before the Court on March 24, 2009, for a hearing on two motions: Defendants' Motion for Judgment on the Pleadings [Docket No. 251] and Plaintiffs' Cross-Motion for Summary Judgment [Docket No. 259].

The Court, having considered the arguments presented in the parties' written submissions and at oral argument, GRANTS in PART and DENIES in PART the Defendants' Motion for Judgment on the Pleadings and finds:

(1) the Motion for Judgment on the Pleadings is GRANTED IN PART and Plaintiffs' claims are barred to the extent they contend that Defendants are required to provide temporary alternate routes for pedestrians around construction sites or to ensure that such routes are accessible by strict compliance with the ADA Accessibility Guidelines for Buildings and Facilities (the "ADAAG"), 28 C.F.R. Pt. 36 App. A.

(2) the Motion for Judgment on the Pleadings is DENIED to the extent that Defendants contend that such temporary routes need not be readily accessible to and usable by people with disabilities to the maximum extent feasible.

1 The Court, having considered the arguments presented in the parties' written submissions
2 and at oral argument, GRANTS in PART the Plaintiffs' Cross-Motion for Summary Judgment and
3 finds:

4 (3) to the extent Defendants elect to provide temporary routes for the use of the public,
5 Defendants have a duty to make such routes accessible.

6 Finally, the Court notes that the following pending motions were filed by Defendants in
7 connection with their Motion for Judgment on the Pleadings: (1) a Motion to Strike Peter Margen's
8 Declaration in Support of Plaintiffs' Opposition to Defendant's Motion for Judgment on the
9 Pleadings [Docket No. 274] and (2) a Motion to Strike Plaintiffs' Revised [proposed] Order Granting
10 Plaintiffs' Cross-Motion for Summary Judgment and Belatedly Submitted Declarations of McElroy,
11 Williams and Skaff In Support of Plaintiffs' Cross-Motion for Summary Judgment [Docket No. 288].
12 In light of the Court's resolution of the motions, which is based on both the written submissions and
13 the argument of the parties at the hearing, the Court DENIES the pending motions AS MOOT and
14 VACATES the hearing date currently set for May 20, 2009, at 1:00 p.m.

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16 IT IS SO ORDERED.

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19 Dated: 3/30/09


SAUNDRA BROWN ARMSTRONG
United States District Judge